



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3618
4/21/01
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In re Application of: McCarthy, J.

Examiner: Avery, B.

JUL 02 2001

Serial Number: 09/539,394

Group Art Unit: 3618

TO 3600 MAIL ROOM

Filed: 03/13/00

For: METHOD AND APPARATUS FOR CONTROLLING THE SPEED OF AN ENGINE
WITHIN A HYBRID ELECTRIC VEHICLE

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

AMENDMENT AND RESPONSE TO OFFICE ACTION

Applicants respond to the Office Action mailed on 3/22/01 (hereinafter referred to as the "Office Action") in the following manner:

REMARKS

Applicant's undersigned attorney thanks the Examiner for a kind and thorough review of the Application. In the Office Action, the Examiner has rejected claims 1 – 19. Particularly, the Examiner has rejected claims 1 – 13 under 35 U.S.C. §112, 2nd paragraph, rejected claims 1 - 7 under 35 U.S.C. §102(e) and has rejected claims 1, 2, and 5 – 19 under 35 U.S.C. §102(b).

§112, 2nd paragraph rejections

The Examiner has rejected claims 1 – 13 under 35 U.S.C. §112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner asserts that in independent claims 1 and 8 are unclear and confusing because of the Applicant's suggestion "that torque (speed) is capable of controlling speed".

The Applicant's undersigned attorney respectfully asserts that the term "torque" is not an equivalent to the term "speed" as it appears to be suggested in the Office Action. Torque is a measure of rotational **force**, whereas speed is a measure of rotational **velocity**. It is clearly